

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Grady Ashe,

Plaintiff,

vs.

Chief Jailer Franklin Y. Smith, Sheriff Ray
Nash and Captain Paster,

Defendants.

C.A. No.: 8:07-537-RBH

ORDER

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Bruce Howe Hendricks, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

The Report and Recommendation in this case was filed and mailed to the plaintiff on December 18, 2007. The deadline for filing objections was January 10, 2008. Plaintiff filed a timely motion to extend the deadline for filing objections, and this Court granted the plaintiff until

January 30, 2008. On February 4, 2008, Plaintiff filed objections to the Report. The *Houston v. Lack* filing date was February 1, 2008, since the envelope containing the objections shows that it was received by the prison mailroom on February 1, 2008. Therefore, the objections to the Report and Recommendation are not timely and will not be considered by the Court. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Hendricks' Report and Recommendation and incorporates it herein. It is therefore

ORDERED that defendants' motion for summary judgment is **GRANTED**, and that plaintiff's claims are hereby **DISMISSED**. It is further Ordered that the plaintiff's pending motion to appoint counsel is hereby deemed moot.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
February 11, 2008